

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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TIMOTHY M. HARRON,

Plaintiff,

vs.

BAYVIEW LOAN SERVICING, LLC,
et al.,

Defendant,

2:10-cv-1641-PMP-RJJ

REPORT AND RECOMMENDATION
OF UNITED STATES
MAGISTRATE JUDGE

This matter was referred to the undersigned Magistrate Judge on an Application to Proceed in District Court Without Prepaying Fees or Costs (#1) and the proposed complaint attached thereto.

The Court having reviewed this matter makes the following findings:

1. On September 27, 2010, the court issued an Order (#3) scheduling a status hearing for October 22, 2010.
2. Notice of the hearing was served on the Plaintiff by certified mail. *See*, Certified Mail Receipt (#4).
3. The certified Letter was delivered and signed for by Plaintiff or his designated representative on September 29, 2010. *See*, Certified Mail Delivery Confirmation (#5).
4. Plaintiff failed to appear for the status hearing on October 22, 2010. Further, Plaintiff failed to contact the court to reschedule said hearing or to provide the court with a reason for his non-appearance.

1 5. It appears that Plaintiff has abandoned this litigation.

2 **RECOMMENDATION**

3 Based on the foregoing and good cause appearing therefore,

4 IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be
5 **DISMISSED WITH PREJUDICE.**

6 **NOTICE**

7 Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and
8 Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days
9 after service of this Notice. The Supreme Court has held that the courts of appeal may determine
10 that an appeal has been waived due to the failure to file objections within the specified time.
11 Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986). This Circuit has also
12 held that (1) failure to file objections within the specified time and (2) failure to properly address
13 and brief the objectionable issues waives the right to appeal the District Court's order and/or
14 appeal factual issues from the order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th
15 Cir. 1991); Britt v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

16 DATED this 9th day of December, 2010.

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19 ROBERT J. JOHNSTON
20 United States Magistrate Judge
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